

# TENT COOPERATION TREATY

**RECEIVED**

FEB 20 2004

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:  
RICHARD J. MINNICH  
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP  
1100 SUPERIOR AVENUE, 7TH FLOOR  
CLEVELAND, OH 44114

**PCT**

FAY, SHARPE, BEALL, FAGAN,  
MINNICH & MCKEE

## NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing  
(day/month/year)

18 FEB 2004

Applicant's or agent's file reference

BVKZ 200009 PCT

### IMPORTANT NOTIFICATION

International application No.

PCT/US02/39680

International filing date (day/month/year)

11 December 2002 (11.12.2002)

Priority date (day/month/year)

12 December 2001 (12.12.2001)

Applicant

OXYFAST CORPORATION

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Facsimile No. (703)305-3230

Form PCT/IPEA/416 (July 1992)

Authorized officer

Jeffrey R. Jastrzab

Telephone No. (703) 308-0858

**DOCKETED**

## TENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

RECEIVED

20 FEB 2004

WIPO

PCT

Applicant's or agent's file reference BVKZ 200009 PCT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US02/39680	International filing date (day/month/year) 11 December 2002 (11.12.2002)	Priority date (day/month/year) 12 December 2001 (12.12.2001)
International Patent Classification (IPC) or national classification and IPC IPC(7): A61F 13/00 and US Cl.: 604/304		
Applicant OXYFAST CORPORATION		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 14 July 2003 (14.07.2003)	Date of completion of this report 10 February 2004 (10.02.2004)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703)305-3230	Authorized officer <i>F. Hurley</i> Jeffrey R. Jastrzab Telephone No. (703) 308-0858

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US02/39680

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed.
- ☒ the description:  
 pages 1-13 as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.
- ☒ the claims:  
 pages 14-17 as originally filed  
 pages NONE, as amended (together with any statement) under Article 19  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.
- ☒ the drawings:  
 pages 1-3 as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.
- ☐ the sequence listing part of the description:  
 pages NONE as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/US02/39680

## V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. STATEMENT

Novelty (N)	Claims <u>1-19 and 21-22</u>	YES
	Claims <u>20</u>	NO
Inventive Step (IS)	Claims <u>1-19 and 21-22</u>	YES
	Claims <u>20</u>	NO
Industrial Applicability (IA)	Claims <u>1-22</u>	YES
	Claims <u>NONE</u>	NO

### 2. CITATIONS AND EXPLANATIONS

Claim 20 lacks novelty under PCT Article 33(2) as being anticipated by Scherson et al.

Claims 1-19 and 21-22 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the phosphoric acid treated membrane in combination with the other claimed elements.

Claims 1-22 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.